

### REMARKS/ARGUMENTS

Favorable reconsideration of this application in view of the amendments and following remarks is respectfully requested.

Applicants appreciate the courtesies extended to Applicants representative during the personal interview held November 6, 2008. Applicant's statement of substance of the personal interview is incorporated into the above amendments and following remarks.

Claims 1-3 and 13-16 are pending in this application. By this amendment, Claim 1 is amended; and no claims are canceled or added herewith. It is respectfully submitted that no new matter is added by this amendment.

In the outstanding Office Action, Claim 1 is rejected on the grounds of non-statutory obviousness-type double patenting; Claims 1-3 and 13-16 were rejected under 35 U.S.C. § 112, second paragraph; and Claims 1-3 and 13-16 were rejected under 35 U.S.C. § 102(b) as anticipated by JP 05-109865 to Kono.

With respect to the double patenting rejection over co-pending application 10/706,915, Claim 1 is amended by the present amendment and is patentably distinct from Claim 1 of 10/706,915. Accordingly, withdrawal of the double patenting rejection is respectfully requested.

With respect to the § 112 rejection, the claims are amended herewith to clarify the features recited therein. Accordingly, withdrawal of the rejection under § 112 is respectfully requested.

With respect to the rejection of the claims under § 102(b) as anticipated by Kono it is respectfully submitted that the applied art does not teach or suggest a first gap formed between a wall of the chamber and an outer periphery portion of the door member, and a second gap formed between the clean box and an outer surface of the wall of the chamber, with a flow rate of gas flowing through the first gap from an inside of the chamber to an

outside of the chamber is substantially equal to a flow rate of gas flowing out through the second gap from the first opening to an outside environment, as claimed in Claim 1.

Instead, Kono discusses that a seal member 13 seals a gap between an opening 11 of the POD10 and a pod door 21. A seal member 14 seals a gap between a flange 12 of the POD10 and a port plate 3. The seal member 15 seals a gap between a port plate 3 and a port door 31. The inside of the chamber is kept by clean air. In this condition, the seal member 13 seals between the opening 11 of the POD 10 and pod door 21; the seal member 14 seals between a flange 12 of the POD10 and a port plate 3; and the seal member 15 seals a gap between a port plate 3 and a port door 31. Accordingly, Kono discloses that all gaps are sealed with the seal members 13 to 15 when the port doors 21 and 31 are closed, while the gap between the flange portion 31A of the port door 31 and the lower surface of the port plate 3 allows a gas flow when the port doors 2 and 31 are opened.

However, the features of the claimed invention recite the situation in which the flow rate of zero is excluded. That is, Claim 1 recites in part, “gas flowing through the first gap” and “gas flowing through the second gap.” Kono fails to teach that the gas flows through the first and the second gaps, and therefore, fails to teach or suggest that a flow rate of gas flowing through the first gap from an inside of the chamber to an outside of the chamber is substantially equal to a flow rate of gas flowing out through the second gap from the first opening to an outside environment.

With respect to the assertions in the Office Action of intended use in the claimed invention, MPEP 2173.05(g) discusses that there is nothing inherently wrong with defining some part of an invention in functional terms. That is, functional language does not, in and of itself, render a claim improper. Please see *In re Swinehart*, 439 F.2d 210, 169 USPQ 226 (CCPA 1971). A functional limitation must be evaluated and considered, just like any other limitation of the claim, for what it fairly conveys to a person of ordinary skill in the pertinent

art in the context in which it is used. Please see *In Innova/Pure Water Inc. v. Safari Water Filtration Sys. Inc.*, 381 F.3d 1111, 1117-20, 72 USPQ2d 1001, 1006-08 (Fed. Cir. 2004). Accordingly, it is respectfully submitted that the claim features of a flow rate of gas flowing through the first gap from an inside of the chamber to an outside of the chamber is substantially equal to a flow rate of gas flowing out through the second gap from the first opening to an outside environment should be given patentable weight and considered in view of the teachings in the applied art.

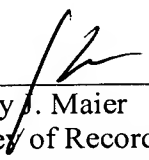
Withdrawal of the rejection under 35 U.S.C. §102(b) based on Kono is respectfully requested.

Consequently, for the reasons discussed in detail above, no further issues are believed to be outstanding in the present application, and the present application is believed to be in condition for formal allowance. Therefore, a Notice of Allowance is earnestly solicited.

Should the Examiner deem that any further action is necessary to place this application in even better form for allowance, the Examiner is encouraged to contact the undersigned representative at the below listed telephone number.

Respectfully submitted,

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